

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,)

Plaintiffs,)

vs.)

DAYTON FAMILY PRODUCTIONS, *et*)
al.,)

Defendants.)

Case No.: **2:97-cv-00750-GMN-VCF**

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Pending before the Court is a Motion for Entry of Findings of Fact and Conclusions of Law (ECF No. 222) filed by Plaintiff Federal Trade Commission (the “FTC”). Defendant Glen E. Burke (“Burke”) filed a Response (ECF No. 223), and the FTC filed a Reply (ECF No. 225).

This case arises from a Complaint filed by the FTC on June 20, 1997, alleging that nine defendants, including Burke, violated the Federal Trade Commission Act, 15 U.S.C. § 45(a), and the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310. (Compl. ¶ 1, ECF No. 1). On October 1, 1998, the Court entered an Order for Permanent Injunction (“Order”), enjoining Burke, along with several other defendants, from participating in prohibited business practices, including any form of marketing misrepresentation and any telemarketing organization. (Order, ECF No. 122). On January 28, 2013, the FTC filed a Motion to Hold Burke and Defendant American Health Associates, LLC (“AHA”) in Contempt (ECF No. 131), and on March 1, 2013, the FTC filed a related Second Motion to Hold Burke in Contempt (ECF No. 169). These motions alleged that Defendants Burke and AHA (collectively, “Defendants”) violated the Order through a telemarketing operation and a sweepstakes operation. (*See* ECF Nos. 131, 169). The Court held a hearing on September 5, 2013 (ECF No. 202) and found that Defendants had violated the Order (Contempt Order, ECF No. 203). The Court found Burke

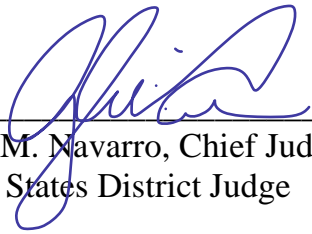
1 liable for \$20,174,740.36, with AHA jointly and severally liable for \$2,785,508.36 of the total.
2 (*Id.*)

3 Burke filed a timely appeal to the Ninth Circuit Court of Appeals regarding only the
4 \$17,389,232.00 liability for his participation in the sweepstakes operation. (ECF Nos. 205);
5 (*see also* Ninth Cir. Mem. 2 n. 1, ECF No. 217). The Ninth Circuit reversed and remanded to
6 this Court, explaining “the district court’s conclusory statements about the evidence supporting
7 the contempt order and sanctions against Burke for his involvement in the sweepstakes scheme
8 do not afford us a clear understanding of the basis of decision.” (Ninth Cir. Mem. at 3) (internal
9 quotation marks omitted). Declining to be the factfinder, the Ninth Circuit remanded for this
10 Court to “provide findings that will facilitate reasoned review” by the appeals court. (*Id.* at 3–
11 4).

12 Having reviewed the record and filings in this case, the Court grants the FTC’s Motion
13 for Entry of Findings of Fact and Conclusions of Law. Concurrent with this Order granting the
14 FTC’s Motion, the Court will enter Findings of Fact and Conclusions of Law, in accordance
15 with Federal Rule of Civil Procedure 52(a), supporting its original Contempt Order (ECF No.
16 203). Accordingly,

17 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Entry of Findings of Fact and
18 Conclusions of Law (ECF No. 222) is **GRANTED**. The Court’s Findings of Fact and
19 Conclusions of Law shall be docketed concurrently.

20 **DATED** this 16 day of March, 2016.

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24 Gloria M. Navarro, Chief Judge
25 United States District Judge